

replied that he had just talked with MARTINEZ "yesterday." MADERA then inquired of ROSALES whether MARTINEZ had told ROSALES "...about a guy that is coming up here." When ROSALES asked "which one," MADERA replied, "the guy from Connecticut..." ROSALES answered "I talked to him (referring to MARTINEZ) the other day...and he told me he no longer had a [calling] card...so I'm supposed to call him today...I haven't called yet, but I'm going to give him a call." MADERA then reiterated to ROSALES that he should call MARTINEZ and tell him that "this guy (from Connecticut) is calling me to see what we can do for him." "Who's that?" asked ROSALES. "Tell him it's *Gediondo*," replied MADERA. (*Gediondo* is Spanish for "Stinky", a person later identified as Roberto GUZMAN.) ROSALES said he would do as MADERA had instructed. (Based on this and previous intercepts of MADERA, I believe that MADERA wanted ROSALES to tell MARTINEZ about *Gediondo* coming to Massachusetts so that efforts could be made by ROSALES and other members of the conspiracy to collect money owed *Gediondo* for a previous shipment of cocaine.)<sup>37</sup>

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<sup>37</sup> *Gediondo* was later identified by Connecticut based DEA Agents as Roberto GUZMAN. This and subsequent Title III intercepts established that GUZMAN was known to MADERA and functioned as an alternate source of cocaine to the MARTINEZ/MADERA organization whenever Mexican supplies of cocaine (through SACAJAQUE) had been exhausted. Intercepts established further that GUZMAN dealt directly with MADERA over MADERA's facilities (although MARTINEZ was acquainted with him) and that GUZMAN's product was shared amongst MADERA's, MARTINEZ', and ROSALES' drug customers. Likewise, intercepts also established that MADERA, MARTINEZ and ROSALES collected money from their

100. At approximately 11:58 a.m. the same day, ROSALES called MADERA. ROSALES asked MADERA for "CHON's" telephone number. When MADERA told ROSALES that CHON was with him, ROSALES and CHON spoke with each other. ROSALES explained to CHON that MARTINEZ had told him that CHON had a "suitcase" at his house. CHON confirmed ROSALES' information. ROSALES then told CHON that they needed to "put together whatever there is plus what I have." (That is, put together money owed *Gediondo* that each man - MADERA, CHON, ROSALES - collected from their clients.) ROSALES also mentioned that neither he nor MARTINEZ had the key to the suitcase. CHON remarked that they could break it open if necessary. CHON then asked ROSALES what time he (CHON) could drop off the money. ROSALES said 15 to 20 minutes. CHON confirmed that they should meet up in 20 minutes.

101. During this call, MADERA reclaimed the telephone and ROSALES told MADERA that he was going to CHON's house. MADERA replied, "we can get it ready so this guy (i.e. *Gediondo*) can leave tomorrow." ROSALES said that he needed to collect "that" (money) and that he "had to go see some other people." (to collect money owed MARTINEZ from prior drug sales and to give to *Gediondo*.) MADERA remarked, "this guy" (*Gediondo*) keeps calling and calling every second." (About the status of his money, I

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customers to compensate GUZMAN for his supply of cocaine.

believe.)

102. At approximately 12:27 p.m. the same day, ROSALES spoke with GARCIA. ROSALES told GARCIA that MARTINEZ had called him (ROSALES) about "you know...to collect it." ("it" referring to drug money.) ROSALES stated that, "what's his face (CHON) is also going to bring some money over from that...and I have to go see some guy that's going to give me some of that as well...so he (MARTINEZ) asked me to collect that you have and...that was why I was asking you." (In view of the previous conversations with MADERA about collecting money for *Gediondo*, ROSALES is asking GARCIA, as he asked CHON, to collect drug money that GARCIA had obtained from customers so that these funds could be paid to *Gediondo*.)

103. GARCIA also mentioned to ROSALES that another customer, "the guy from the Jetta" was going to call that day, and GARCIA intended to "go see him where he lives." (A reference to meeting another customer (Jetta) to collect more money to be given to *Gediondo*.) ROSALES replied that if customer did not call GARCIA, GARCIA was to call him "because it has been too many days." (In other words, the customer was late with his payments.)

104. Later on at approximately 1:40 p.m., ROSALES called MADERA and told him that he was "ready." (Meaning, I believe, that ROSALES was "ready" with the money that he had collected from CHON and GARCIA for *Gediondo*.) MADERA replied, "so how much

is it (money) so I can tell this guy (*Gediondo*). "Well," said ROSALES, "the *mujer* is all grown up...she's 70 years old." ("70" meaning, I believe, \$70,000.) "Okay," replied MADERA. ROSALES then asked MADERA "what time can you stop by where the Doberman lives at?" MADERA replied, "let me call *el Cuiji* (Rogelio GARCIA)...I'll have him go by there." (To collect from ROSALES, I believe, funds owed *Gediondo*.)

105. A short time later, MADERA called ROSALES again and asked ROSALES whether he (ROSALES) could "go to where the Doberman lives at....so he can see you there instead?"<sup>38</sup> MADERA, apparently confused about where to send *el Cuiji* to collect the money, replied, "oh, where the Doberman lives...not where CHON lives...okay, he'll be there in fifteen minutes then." "I'll be waiting for him," said ROSALES. MADERA then directed ROSALES to "make a really nice wrapping around it...put in anything you want....you know what I mean...set it up really good for traveling." (A directive to ROSALES to wrap the \$70,000 owed *Gediondo* carefully, perhaps to fit into a hide.)

#### **15. September 27, 2003: ROSALES and DEJESUS**

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<sup>38</sup> ROSALES and other target subjects often talked about meeting to buy and sell drugs at "the Doberman." I believe that "the Doberman" was a reference to 46 Wyman Street because after calls indicating that ROSALES and others would meet there, surveillance observed ROSALES going to 46 Wyman Street. Likewise, on one occasion during which ROSALES discussed meeting a customer at the "Doberman," cell site data from the target telephone provider confirmed that ROSALES' telephone was in close proximity to 46 Wyman Street, Lynn, MA.

106. On September 27, 2003, at approximately 9:01 p.m., ROSALES spoke with DEJESUS in order to ask him if he "wanted to make a reservation for the flight...the reservation is going for 6." (Meaning, I believe, was DEJESUS interested in purchasing a kilogram of cocaine for \$26,000.) When DEJESUS asked "how much" ROSALES could give him, ROSALES replied, "I can give you..either...half of a boleto (ticket) or...a quarter of a boleto." (Boleto, I believe, was a coded reference to a kilogram of cocaine.) DEJESUS answered, "well, make the reservation for half of a boleto." (Or a half a kilogram of cocaine.) DEJESUS then asked ROSALES whether they could do it (the drug deal) "tomorrow morning...what time are you going to be available tomorrow." When ROSALES asked, "you tell me the time," DEJESUS replied, "I can do it any time after nine." "Then you tell me," answered ROSALES, "and I'll be available." Before hanging up, DEJESUS repeated to ROSALES, "make that a reservation for half a boleto." (In other words, a half a kilogram of cocaine from ROSALES to DEJESUS priced at \$26,000 per kilogram.)

**16. October 2, 2003: ROSALES and ZAYAS**

107. On October 2, 2003 at 8:11 p.m., ROSALES called ZAYAS ZAYAS from target telephone # 6 to 781 632-2960 (the same phone that ZAYAS called MARTINEZ from between September 19-20, 2003 after police had seized GARCIA's Mercury Mountaineer in North Carolina, and ZAYAS was forced to take the bus for the trip to

Orlando and his meeting with MARTINEZ.)

108. ZAYAS asked ROSALES where he was so that ZAYAS could deliver him money that ZAYAS owed ROSALES - "where are you man, I'm going to give you that now, I already have that for you here." ("that" referring to a sum of money ZAYAS owed ROSALES, I believe, for a past drug purchase.) When ROSALES asked ZAYAS where he was, ZAYAS said that he would wait for ROSALES at a nearby restaurant and that he expected "to get something here so I can complete that for you." (An indication that ZAYAS expected to collect more money at the restaurant so that he could "complete" his drug payment to ROSALES.)

109. Later in the call ROSALES told ZAYAS that "that guy showed up" (with drugs) and that ROSALES had tried to reach ZAYAS so that he could sell these drugs to ZAYAS. ROSALES explained that he had called ZAYAS twice but that ZAYAS did not answer his phone and that "the guy had 1 car engine and it was good." ("1 car engine" being a coded reference to either a kilogram or other quantity of cocaine of, apparently, good quality.) When ZAYAS complained that he had fallen asleep on the couch and missed ROSALES' call, ROSALES explained that he "called Charley (referring to Carlos RUIZ, a/k/a Coco-Colo), you know...and he took it right away." (In other words, since ROSALES could not reach ZAYAS about selling him cocaine, ROSALES called RUIZ instead and RUIZ "took it" (bought it) immediately.)

**17. October 5-7, 2003: ROSALES, MADERA, GEMOSEN, and 46 Wyman Street**

110. October 5, 2003, at approximately 5:29 p.m., ROSALES called and told MADERA that he had "met with the guy today....the one that I told you was coming...but ...he could only come up with one...I don't know if you would be interested in taking a half (1/2)." ("half" referring, I believe, to a half a kilogram of cocaine that ROSALES was willing to sell to MADERA.) MADERA replied, "well, if you give me 1/2, I'll take it." (Meaning that if ROSALES still had the 1/2 kilogram of cocaine, MADERA would buy it.) ROSALES answered, "well....I'm ready...that's all ready." (In other words, ROSALES would sell MADERA the cocaine if he wanted to buy it.) MADERA continued, "the only thing is that it's going to have to be later because Christian (GERMOSEN, MADERA's brother)...I have to get in touch with Christian....could it be in the morning on the safe side?" ROSALES replied, "okay, it's better tomorrow....uh, it's with the six and a half, man...because that's how the situation is, you know?" ("six and a half" meaning the cost of an entire kilogram of cocaine was \$26,500.) MADERA relied, "that's fine...yeah of course, that's okay." ROSALES told MADERA to call him "when you're ready to pick it up." ("it" referring to the half kilogram of cocaine.)

111. On October 6, 2003, at approximately 4:29 p.m., MADERA called ROSALES and asked ROSALES if ROSALES had "Lagartijio's

telephone number." (*Lagartijo* being a nickname for GARCIA, a/k/a *Lacuilla*.) ROSALES dictated GARCIA's number, "write it down... 781...244....0256." MADERA told ROSALES that he would call ROSALES later "to go pick that up." (Referring, I believe, to the 1/2 kilogram of cocaine discussed the day before.) ROSALES replied, "that's fine because I haven't used it yet...I wasn't going to use it until tomorrow. (Suggesting, I believe, that ROSALES would sell the cocaine to someone else if MADERA did not take it.) MADERA replied, "so call me when you're about to break it." ("Break" refers, I believe, to dividing the kilogram in half to sell MADERA.) ROSALES continued, "well if you need it right away..." "No," MADERA replied, "tomorrow is fine.

112. On October 7, 2003, at approximately 12:04 p.m., ROSALES called MADERA again and asked MADERA if he still wanted "that." (Meaning did MADERA still want the drugs.) MADERA said, "yeah," then asked ROSALES whether "this guy" had called him yet. When ROSALES asked "who?", MADERA replied "Christian." (Referring to Christian GERMOSEN, MADERA's brother.) ROSALES said that GERMOSEN had not called him and reiterated to MADERA that ROSALES had to know whether MADERA wanted the 1/2 kilogram of cocaine because ROSALES had other interested customers. MADERA confirmed his need for the drugs telling ROSALES "I'm counting on that." ROSALES told MADERA to "...give him (GERMOSEN) a call and tell him to call me please." (In order to complete delivery of the 1/2

kilogram.)

**Surveillance of GERMOSEN**

113. On October 7, 2003, at approximately 12:07 p.m., GERMOSEN called ROSALES. ROSALES asked GERMOSEN what time he could stop by. GERMOSEN replied "in about 15 minutes." ROSALES countered, "so I can open that then?" ("that" referring to the kilogram that ROSALES was about to divide in half in order to give one half to MADERA.) "Alright then," replied GERMOSEN, and then asked ROSALES where they could meet. ROSALES stated, "over where you have been before...but its now going to be the first floor, not upstairs." "Alright," said GERMOSEN.

114. At approximately 12:22 p.m. the same day, surveillance agents took up positions in the vicinity of 46 Wyman Street in Lynn, MA. At approximately 12:29 p.m., agents observed a black Ford Expedition SUV (MA Reg CI 9820) being operated by a Hispanic male drive up Wyman Street, turn into the driveway of 46 Wyman Street, and continue towards the rear of the residence. (As the black Expedition pulled into the 46 Wyman Street driveway, another surveillance agent identified its driver and sole occupant as Christian GERMOSEN based on his prior review of MA Driver's License photograph of Christian GERMOSEN.) At 12:30 p.m., surveillance observed the black Expedition drive to the rear of 46 Wyman Street where GERMOSEN, wearing a white baseball cap and blue jeans, exited the vehicle and walked into 46 Wyman

Street building. At 12:32 p.m., GERMOSEN exited the rear entrance of 46 Wyman Street carrying a medium size package and return to the Ford Expedition. After sitting inside the vehicle for 2 minutes or so, GERMOSEN departed the driveway (at 12:34 p.m.) towards nearby Boston Street where surveillance was terminated.

115. Based upon the calls between ROSALES, MADERA and, later, the single call between ROSALES and GERMOSEN less than 30 minutes before GERMOSEN was identified coming and going from 46 Wyman Street - an address commonly frequented by ROSALES, and other target subjects - I believe that MADERA and ROSALES negotiated the purchase and sale of a half kilogram of cocaine between October 5 and October 7, 2003, and that on October 7, GERMOSEN went to 46 Wyman Street to collect the aforementioned 1/2 kilogram of cocaine.)

**18. October 4-6, 2003: ROSALES and Ricardo MARTINEZ**

116. On October 4, 2003, at approximately 1:03 p.m., ROSALES called Ricardo MARTINEZ and asked Ricardo MARTINEZ whether he had contacted one of their customers. Ricardo MARTINEZ replied that the "guy" still "needed to collect 500 bucks...that he was going to borrow them so that so that it was going to be 3 o'clock." "\$500?" replied ROSALES, "that's fine." (I believe that the \$5000 was a drug debt owed the organization and was to be collected by Ricardo MARTINEZ.) ROSALES also asked Ricardo MARTINEZ when he

was planning to join MARTINEZ (his brother) and ailing mother in Mexico. Ricardo MARTINEZ replied that he was leaving "at night...depending how things go."

117. On October 6, 2003, at approximately 12:49 p.m., ROSALES was called by Ricardo MARTINEZ. ROSALES asked Ricardo MARTINEZ where he was; Ricardo MARTINEZ replied that he was "2 hours away from the Texas border." Ricardo MARTINEZ also stated that he had a problem -- his cellular telephone was not working and ROSALES needed to go to the telephone store and add more money to his telephone account. ROSALES replied that he (ROSALES) already knew that the phone was because Valentin MARTINEZ had already informed ROSALES. ROSALES was also told by Valentin MARTINEZ to tell Ricardo to disconnect the telephone and call Valentin MARTINEZ in Mexico. Ricardo Martinez said he would call his brother when he reached a telephone.

**19. October 7, 2003: ROSALES, DEJESUS, and 106 Marianna Street, Lynn, MA**

118. On October 7, 2004, at approximately 12:30 p.m., DEJESUS called ROSALES from 781 913-2224 and asked ROSALES "in how long can we see each other?" ROSALES replied, "in half hour...at one o'clock." When ROSALES asked DEJESUS where they could meet, DEJESUS replied that ROSALES could stop by either "by the grocery store...or if you want to stop by the house." When ROSALES said whatever was easier, DEJESUS said for ROSALES to "just come over to the house then...you know where I have told

you before." ROSALES said that he would be there "at 1 o'clock then." (Based on this exchange, and DEJESUS prior drug related conversations with ROSALES, I believe that ROSALES intended to meet with DEJESUS at 106 Marianna Street to deliver drugs to him.)

**Surveillance of ROSALES at 106 Marianna Street, Lynn, MA**

119. At approximately 1:00 p.m., surveillance observed ROSALES depart from 46 Wyman Street driving the green Lincoln Town Car (MA Reg. CI355H) and drive to 106 Marianna Street. Upon ROSALES' arrival, he entered the building, remained 15 minutes, exited the building, and drove away.<sup>39</sup>

**20. October 11-15, 2003: ROSALES and ORTIZ (Scarface)**

120. On October 11, 2003, at approximately 8:58 p.m., ROSALES received a call from ORTIZ. ORTIZ told ROSALES that he had a guy who "has to square that away for me...he hasn't called me yet so...I think that there's a pretty good chance by tomorrow afternoon...I'll be ready with half of the rest...you understand me...because things are kind of slow for the guy now...so he hasn't call me." ORTIZ assured ROSALES that he would have the "rest" of what he owed ROSALES (for a previous drug delivery) by

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<sup>39</sup> I was informed, incorrectly, by surveillance that ROSALES had entered 107 Marianna Street at around 1:00 p.m on October 7, 2003. However after talking with the surveillance agents, I have since learned that they had confused 106 Marianna with 107 Marianna Street and, as such, are able to confirm that ROSALES entered 106 Marianna Street that day, presumably to sell drugs to DEJESUS.

the next day. When ROSALES pressed ORTIZ for the money, ORTIZ said that he had a couple of hidden *papeletas* that he could tap if his "guy" was unable to come up with the money. "Alright man," replied ROSALES. (I believe that ORTIZ expected to be able to pay ROSALES what he owed him by the next day even if he had to pay ROSALES from his own money (*papeletas*)).

121. On October 15, 2003, ROSALES and ORTIZ were intercepted several times between 11:30 a.m. and 12:30 p.m. about ORTIZ meeting ROSALES at Kelly's Roast Beef restaurant on Route 1 (south) in Saugus, MA and collecting drugs. Around 12:30 p.m., after meeting up with ROSALES in the parking lot of Kelly's and directing ROSALES to follow him in his car ("follow me...so we don't have to stay there"), ORTIZ blurted out whether ROSALES had seen "the car behind you." (Referring, I believe, to one of the surveillance vehicles assigned to that location.) ORTIZ continued that he had told ROSALES to follow him because he saw a car parked at the restaurant in which he observed "some strange movement going on in the white car." ROSALES confirmed that he saw a "blue car behind me," (referring to another surveillance vehicle), and ORTIZ noted that he had seen a "black car..on the other side (of the lot)...and when we took off, the black car took off as well." (The black car was a third surveillance vehicle dispatched to the scene.) After driving away from Kelly's ROSALES and ORTIZ talked about seeing the white car drive

"around the block," and a second vehicle driving down "another street," and that things were "kind of strange." After ROSALES and ORTIZ left the area, ORTIZ told ROSALES that "the black car that went by me a little while ago...those people are cops, because he just went by me again." "Really," remarked ROSALES. "Yes, yes, yes, yes," said ORTIZ. (It would appear from this exchange that despite efforts to surveil this meeting/transaction undetected, ROSALES and ORTIZ detected law enforcement, canceled their planned drug deal, and sped away.)

**21. October 18-19, 2003: ROSALES and BALBI (New York supplier)**

122. On October 18, 2003, at approximately 2:11 p.m., ROSALES called Diego BALBI, a New York based cocaine supplier of the organization.<sup>40</sup> BALBI told ROSALES that he "was here for you always." ROSALES replied, "do you think you're going to have the reservation?" (Meaning would BALBI have drugs to sell ROSALES.) BALBI replied that he thought that he would have it for ROSALES but that it would have to be "for tomorrow...around 12:00." ROSALES answered, "that's even better, that way I'll collect even more [money]. " (in other words, ROSALES would have time to collect additional monies from customers that, later, he would

give to BALBI.) BALBI said that if "anything else came up," he would take care of ROSALES with "whatever extra" he had. (Meaning that if BALBI had more drugs to sell ROSALES than originally planned, ROSALES would get them.) ROSALES replied, "for the moment I just need a *reservation*." (Referring, I believe, to a single kilogram of cocaine.)

123. On October 19, 2003, at approximately 1:38 p.m., a BALBI associate, "Comejen," called ROSALES. Comejen told ROSALES that he was thinking of "stopping by" and saying hello in about 20 minutes. ROSALES replied okay. At 2:02 p.m., Comejen called ROSALES again and said that he would be there in "one minute." ROSALES said he was ready. (Meaning, I believe, that ROSALES was waiting for Comejen to arrive so that he could deliver money he owed BALBI and/or receive a delivery of drugs.

**Seizure of \$95,080 (Comejen)**

124. On October 19, 2003, following conversations between ROSALES, BALBI, and Comejen, surveillance observed two (2) Hispanic males driving a blue minivan enter 46 Wyman Street at approximately 2:07 p.m. A short time later, 2:11 p.m., the same two (2) men were observed exiting 46 Wyman Street, getting back into the blue minivan and, after making two more stops in Lynn, MA, headed for the Massachusetts Turnpike. After traveling westbound for several miles on the Turnpike, a Massachusetts State Police marked unit (in contact with myself and other agents

in Lynn and on my directive) stopped the blue minivan. The two occupants of the minivan identified themselves as "Wilson Andrid Ortiz" (driver) and "Carmello Rosa" (passenger). A subsequent search of the back seat floor of the vehicle revealed a "hide" that contained \$95,080 in U.S. currency. (Money that, I believe, these individuals collected from ROSALES at 46 Wyman Street at approximately 2:12 p.m. in payment of a drug debt ROSALES owed BALBI for a previous supply of cocaine.)

**22. October 24-25, 2003: MADERA, ROSALES, GERMOSSEN, and ASARO**

125. On October 24 and October 25, 2003, MADERA spoke with ROSALES, Christian GERMOSSEN, and ASARO. The substance of these calls involved ROSALES' contact with MADERA about collecting a sum of money from MADERA (owed to ROSALES from a previous drug sale to MADERA), so that ROSALES could pay a second person who had plans to meet ROSALES the night of October 24, 2003 to collect money that ROSALES, apparently, owed him.

126. After that, MADERA called ASARO several times and pressed him to come up with money that he owed MADERA. During these calls, ASARO told MADERA that he had "28" (i.e. \$28,000) ready to give to MADERA but that he was waiting for the payment of another "30" (i.e. \$30,000) from another client that he also intended to give MADERA. After this conversation, MADERA called GERMOSSEN and directed him to make arrangements with ASARO about

picking up money from ASARO and delivering it to ROSALES.

127. Apparently, after GERMOSEN went to meet ASARO to collect money, he called MADERA to say that he detected police surveillance and aborted the errand to meet ASARO and, later, ROSALES. MADERA then called ROSALES to say ROSALES would have to wait until the next day to get his money. ROSALES was irritated with MADERA and told MADERA that he would have the person to whom he owed money spend the night to await MADERA's payment the following day.

128. The afternoon of October 25, 2003, MADERA called GERMOSEN to ask him whether he had picked up money from ASARO and delivered it to ROSALES. GERMOSEN said that he was seeing ASARO that afternoon before meeting with "Tono," (referring to ROSALES' alias.) To reassure MADERA, GERMOSEN told MADERA that ASARO had called him (GERMOSEN) to say that ASARO had all the money (\$58,000), and that GERMOSEN would call ROSALES within the hour about meeting him.

129. Later, MADERA called ROSALES to say that GERMOSEN was waiting on the "other thing" (ASARO's money) and would be seeing ROSALES soon. ROSALES again reminded MADERA that "he was "ready" and that GERMOSEN should call first in case ROSALES was out.<sup>41</sup>

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<sup>41</sup> At 4:57 p.m. on October 25, 2003, agents surveilled GERMOSEN drive to 46 Wyman Street in Lynn, MA, park in the back of the apartment house, exit the car, wait for several minutes at the back door, then meet with ROSALES outside for several more minutes. While both ROSALES and GERMOSEN were outside,

Later, at 5:30 p.m., GERMOSEN called MADERA to say that he already been to "Tono's place," had "left already." MADERA told GERMOSEN that he (MADERA) still owed ROSALES "5" (\$5000) and that he would give "them to him tomorrow in the afternoon."

130. Two minutes later, MADERA called ASARO to say that "my brother" (GERMOSEN) is on his way over to see you, and that he needed to give GERMOSEN "28...5" (\$28,500 for, I believe, 1 kilogram of cocaine), and that the \$500 was for GERMOSEN so that he could "make something" in this deal. ASARO said fine.

**23. November 4-5, 2003: ROSALES and Silvestre LIZARDI, 80 Sagamore Street, Apt. #205 (ROSALES), 892 Washington Street (Giovanni's BMW Auto Body)**

131. On November 4, 2003, between 5:09 p.m. and 7:20 p.m., ROSALES had five (5) conversations with Silvestre LIZARDI from a telephone number subscribed to Citywide Auto Glass, 92 Newbury Street, Peabody, MA - LIZARDI's employer.

132. During the initial call at 5:09 p.m., LIZARDI asked ROSALES if he had "something now." (In other words asking ROSALES, I believe, if ROSALES had drugs.) ROSALES replied that he had a "carro (car) available so he can paint it." (The "he" that ROSALES was referring to was LIZARDI's associate - Giovanni

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surveillance watched ROSALES enter a vehicle (a green Lincoln sedan), collect a plastic bag holding what appeared to be a single kilogram of cocaine (shape and size of the bag's contents very similar to a kilogram of cocaine), deliver the bag to GERMOSEN who, in turn, re-entered his vehicle and drove away. (Agents believe that this kilogram of cocaine was later delivered to ASARO at MADERA's direction for the aforementioned \$28,500.)

AVILA, the "Painter" - and whether he (Giovanni) wanted to purchase the *carro*. (coded reference to a kilogram of cocaine.)

133. At 5:28 p.m., LIZARDI asked ROSALES what the price was ("he's [AVILA] going to want to know the price"). ROSALES told LIZARDI that "he (AVILA) can take it with six." (Meaning, I believe, that a kilogram of cocaine would cost \$26,000. ROSALES said that he wanted AVILA to pay for the kilogram up front - "right away". LIZARDI asked ROSALES what the kilogram looked like and whether it was "shiny." ROSALES said that it was "gringa" or white in color. ROSALES assured LIZARDI that it had "some shine." (In my experience, white cocaine constitutes good quality; "shiny" cocaine constitutes cocaine that is also good quality.)

134. At 6:32 p.m., LIZARDI told ROSALES that his associate (AVILA) was at the gym, and that LIZARDI had beeped him using the Nextel direct connect feature. ROSALES said that he could do the deal the next day if the guy needed drugs.

135. At 7:20 p.m. the same day, LIZARDI, again asked ROSALES about the quality of the kilogram of cocaine ROSALES was trying to sell him. For example, LIZARDI asked whether it came "one to a box," and whether it "came with a cover...a plastic cover." ROSALES assured LIZARDI that it came "all wrapped." LIZARDI said that he would speak with ROSALES the next day about making the delivery.

136. Finally, at 8:15 p.m., LIZARDI confirmed with ROSALES that his "guy" (AVILA, the painter) would buy the kilogram of cocaine at the price quoted (\$26,000), and that he would pay right away. However, LIZARDI continued to ask ROSALES about the quality of the cocaine. For example, was it the same quality as the cocaine that he (LIZARDI) used to buy from Valentin MARTINEZ ("like when it comes from over there...like they used to bring it to Vale from over there (i.e. Mexico)"); whether it was packed/wrapped the same way when "Greg" delivered it; whether the drugs were from "another company"; whether it came with "tape" on it or in "one piece" with tape on it; and whether it "smelled good." ROSALES related that it came from "another company" but that it came in "one piece." ("another company" meaning that it did not come from Valentin MARTINEZ' source in Mexico.)

137. On November 5, 2003 between 10:32 a.m. and 12:48 p.m., ROSALES spoke with LIZARDI several times from the same number subscribed to Citywide Auto Glass, 92 Newbury Street, Peabody, MA. Some of the topics discussed between ROSALES and LIZARDI included the following: LIZARDI was ready to pick up the kilogram of cocaine from ROSALES' at 46 Wyman Street; ROSALES changed the delivery site from 46 Wyman Street to the "parking lot" at ROSALES' own house, 80 Sagamore Street; LIZARDI complained to ROSALES that "he" (AVILA) did not like the cocaine, so ROSALES told LIZARDI to return the drugs to him; LIZARDI, however, said

that the painter (AVILA) wanted to show it to a third party to see if the third party wanted it; ROSALES agreed to let the painter (AVILA) try to sell the kilogram (for \$26,000) but ROSALES needed the purchase money up front, otherwise, he wanted the kilogram of cocaine back; ROSALES was frustrated with LIZARDI because the painter was taking too long to show the drugs to the third party; LIZARDI complained to ROSALES that after he had met with ROSALES that day, he was stopped by the police who ticketed him for driving a vehicle with excessively dark tinted glass; LIZARDI confirmed with ROSALES that the third party would buy the kilogram of cocaine, but also wanted to buy 2 more kilograms of cocaine from ROSALES of better quality than the one kilogram given to the third party; ROSALES told LIZARDI that he would have more cocaine over the weekend ("Saturday"); LIZARDI had the purchase money from the painter (AVILA) and would meet ROSALES later to count it.

**Surveillance of ROSALES and LIZARDI**

138. At 10:50 a.m., following preliminary calls between LIZARDI and ROSALES, ROSALES was observed arriving at 46 Wyman Street driving a Green Lincoln Town Car (Abreu's vehicle), parking and exiting the Lincoln, entering the grey Sable station wagon in which ROSALES had been seen many times during this investigation around Lynn, and then departing 46 Wyman Street operating the grey Sable wagon at approximately 10:57 a.m. At

11:06 a.m. surveillance observed ROSALES and the Sable wagon arriving at 80 Sagamore Street in Lynn, ROSALES residence. At 11:09 a.m., ROSALES and the Sable departed 80 Sagamore Street and drove around the block several times. At 11:15 a.m. surveillance of ROSALES was terminated and agents set up in front of 80 Sagamore Street. At 11:26 a.m. ROSALES and the Sable were spotted, again, parked in front of 80 Sagamore Street. At approximately the same time, surveillance noted a second Hispanic male dressed in a black jacket walk out of Giovanni's BMW Auto Body (AVILA'S auto repair/body shop located 892 Washington Street in Lynn and nearby to 80 Sagamore Street and owned by Giovanni AVILA) and enter a white van with the name "glass doctor" printed on the side. Shortly afterwards, surveillance observed this same Hispanic male speaking on a cellular telephone at the *same* time (approximately 11:25 a.m.) that monitors intercepted LIZARDI complaining to ROSALES about the quality of the cocaine LIZARDI was picking up for his associate the painter (see ¶129, *supra*). Thereafter, surveillance followed the white van drive to Essex Street, where the Hispanic male in the black jacket exited the van (at approximately 11:32 a.m.), crossed the street, and enter 405 Essex Street. At 11:38 a.m., the Hispanic male with the black jacket departed 405 Essex Street, re-entered the white van, and drove away. After making one stop at Norcross Terrace, Lynn

police officers stopped the white van on Eastern Avenue.<sup>42</sup> Before citing the operator for driving a vehicle with excessively dark tinted windows, officers obtained identification from operator confirming that he was Silvestre LIZARDI of 27 Warren Street, Newburyport, MA

139. At 12:48 p.m. the same day, LIZARDI called ROSALES to complain that he had just been stopped by the police on Eastern Avenue and cited for driving a vehicle with "too dark" windows.

**24. November 29, 2003: ROSALES and GREENBERG**

140. On November 29, 2003, at approximately 2:20 p.m., ROSALES received a call from Howard GREENBERG calling from 617 957-1508, a number subscribed to Howard Greenberg, 677 Revere Beach Blvd, Revere, MA. After GREENBERG asked ROSALES what was going on, ROSALES replied, "what can I say...something different." "Hallelujah," replied GREENBERG, "is it good?" (Inquiring about the quality of drugs ROSALES was selling.) ROSALES answered, "yeah, came back the same as the other stuff." GREENBERG replied, "okay, give me a big one...make sure it's okay." (Meaning that he would buy an undetermined amount of cocaine.) ROSALES asked GREENBERG if he was in a rush to get the

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<sup>42</sup> It was at this location, immediately after LIZARDI parked the white van on Essex Street, that GS Brady dialed 978 479-2425 (the number LIZARDI had used to communicate with ROSALES). At the moment that the call was answered, GS Brady observed LIZARDI put his cellular telephone to his ear using his left hand and say the word "hello." GS Brady then quickly ended the call.

drugs. GREENBERG replied, Uh....about an hour." "Alright, that's fine," stated ROSALES. Before hanging up, GREENBERG pressed ROSALES about the quality of the drugs, "are you sure its okay?" ROSALES replied, "yes, yes, don't worry."

**25. November 29 to December 1, 2003: ROSALES, BALBI, and 7 kilogram seizure**

141. On November 29, 2003 at approximately 7:50 p.m., ROSALES called Diego BALBI. ROSALES asked BALBI if he (BALBI) was going "...to pay me a visit." BALBI replied that he was coming "tomorrow afternoon" (November 30, 2003). ROSALES told BALBI that he needed "a girl so she can clean up the house....just one" ("girl" referring to a kilogram of cocaine.) BALBI replied that he had already put together "a package for you with a hand...because things are kind of tough now on the street to be going up and down...so I just want you to be okay over there , so you can relax." (BALBI meant, I believe, that with cocaine supplies scarce, he wanted to give ROSALES five (5) kilograms of cocaine ("a hand" or five fingers) and not one, so that he (or his associate Comejen) would not have to make multiple trips between New York and Lynn to supply ROSALES with cocaine.) "Wow," replied ROSALES, "how many girls do you have to clean up the house?" BALBI told him "3 or 4 at the most...so I'll see you around 10 or 11 (o'clock)." (meaning, I believe, BALBI had 3 or 4 kilograms of cocaine earmarked for ROSALES that could be delivered at 10:00 or 11:00 on November 30.)

142. On November 30, 2003, at approximately 4:07 p.m., BALBI called ROSALES to tell ROSALES that the trip to Lynn was going to be delayed a day but that he would leave "early tomorrow."

143. On December 1, 2003, at approximately 7:40 p.m., BALBI called ROSALES and asked ROSALES whether "my *compadre*" (referring to Comejen) had arrived yet. ROSALES replied "no....he hasn't called me." BALBI expressed concern for his *compadre* - "that scares me man" - noting that Comejen had left New York "around 3 (o'clock)."

144. At approximately 9:52 p.m. the same day, ROSALES and BALBI spoke again. After ROSALES confirmed that the guy (Comejen) had still not called, BALBI remarked that "he (referring to Comejen) had some problems...he got into an accident or something" and that ROSALES should not talk over the telephone that he was using.

**26. December 1, 203: 7 kilogram seizure Harrison, NY**

145. During the evening of December 1, 2003, Harrison NY Police working with DEA New York and DEA Boston, and in response to the aforementioned intercepts between ROSALES and BALBI, stopped a red Toyota Camry on the Hutchinson River Parkway containing a single Hispanic male who identified himself to officers as "Carmello Rosa" -- the same person who was the passenger of the blue minivan that contained \$95,080 in a hide and was stopped by Massachusetts State troopers on October 19,